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Attorney for the Commission Staff

## **BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE PUBLIC UTILITY</b>	)	
<b>COMMISSION'S INQUIRY INTO THE</b>	)	<b>CASE NO. GNR-T-21-10</b>
<b>REVIEW OF APPLICATIONS TO</b>	)	
<b>DETERMINE WHETHER BROADBAND</b>	)	
<b>EQUIPMENT MEETS THE ELIGIBILITY</b>	)	<b>COMMENTS OF THE</b>
<b>REQUIREMENTS FOR INVESTMENT TAX</b>	)	<b>COMMISSION STAFF</b>
<b>CREDITS</b>	)	

**STAFF OF** the Idaho Public Utilities Commission, by and through its Attorney of record, Riley Newton, Deputy Attorney General, submits the following comments:

### **BACKGROUND**

On November 19, 2021, Commission Staff ("Staff") of the Idaho Public Utilities Commission ("Commission") by and through its legal counsel applied to the Commission requesting that the Commission initiate a case to inquire into the process for obtaining a broadband tax credit ("Memo"). *See* Procedural Order No. 28784. Staff recommended the Commission establish an intervention period followed by a public comment and reply period. Memo at 2.

Beginning in 2001, a telecommunications carrier could obtain a tax credit for installing "qualified" broadband equipment. *Idaho Code* § 63-3029I.

*Idaho Code* § 63-3029I(4) specifically provides that the Commission “may issue procedural orders necessary to implement” *Idaho Code* § 63-3029I. In 2001, the Commission issued Procedural Order No. 28784 (“Order No. 28784”). Order No. 28784 clarified what information an applicant must include in an application to the Commission for an order that its installed equipment meets the statutory definition of “qualified broadband equipment” and is, therefore, eligible for the broadband tax credit under *Idaho Code* § 63-3029. Order No. 28784 at 2-3.

Staff believes it necessary to evaluate whether the criteria set forth in Order No. 28784 describing what information an applicant must provide to obtain an order that its installed equipment is “qualified broadband equipment” are still necessary and relevant.

#### **STAFF REVIEW**

Staff has reviewed the original requirements that were established in Commission Order No. 28784:

1. Name and address of applicant including the contact person in the event there are questions regarding the application and its content. Indicate whether the applicant is a telecommunications carrier, a commercial mobile service carrier, a cable or open video operator, a satellite carrier, or other type of wireless carrier.
2. Identify the area or location where the equipment is installed in Idaho.
3. Describe the type of broadband service(s) offered to the public in Idaho.
4. State the network transmission rate in bits per second at which subscribers to the relevant broadband network can receive and send (download and upload).
5. Provide a specific list of the equipment or types of equipment that the applicant is requesting that the Commission determine is “qualified broadband equipment” as defined in *Idaho Code* § 63-3029I(3)(b). List the brand, manufacturer, model numbers, or other distinguishing features of the installed equipment.
6. Provide the date(s) or time period(s) when the broadband equipment was installed in Idaho.

7. Provide a written description (including basic schematics or general drawings) of the relevant broadband network including a description of how the installed equipment is “an integral part” of a broadband network.

8. Quantify the percentage and number of potential Idaho subscribers that could be served with the broadband equipment and the percentage and number of non-Idaho subscribers that will be/could be served by the broadband network.

9. Enclose a statement certifying that the applicant has read the applicable statutes for broadband investment income tax credit and the applicant believes that the subject broadband equipment qualifies for the tax credit under Idaho Code § 63-3029I.

Staff is not suggesting any changes to items 1, 2, 3, 6 and 9. Staff suggests deleting item 7 and rewriting items 4, 5 and 8 to read as follows:

4. Provide the lowest transmission rate offered to customers, in bits per second, that subscribers to the relevant broadband network can receive and send (download and upload).

5. Provide a specific list of the equipment or types of equipment that the applicant is requesting that the Commission determine is “qualified broadband equipment” as defined in Idaho Code § 63-3029I(3)(b). List the brand, manufacturer, and model numbers of the installed equipment, number of items and total cost.

8. Quantify the percentage or number of potential Idaho subscribers that could be served with the broadband equipment or the percentage and number of non-Idaho subscribers that will be/could be served by the broadband network.

Staff believes item 4 would be more relevant if companies indicated the lowest speed that they offer to customers. That speed should be above 200,000 bits per second to a subscriber and 125,000 bits per second from a subscriber, as required by statute. Requiring companies to report the lowest transmission rate they offer customers would also serve to better illuminate the nature and extent of broadband services available within Idaho.

Staff recommends clarifying Item 5. Staff would also like to bring to the Commission’s attention the concerning practice of some companies that just provide a “data dump” of information without providing the level of detail required for Staff to properly approve their investments. Staff urges the Commission to reiterate the importance of item 5 and the

expectation that detailed information is necessary for any application to be approved. Specifically, Staff expects to see a spreadsheet listing the brand or name of the product, manufacturer, and model numbers of the installed equipment, number of items, and the total cost.

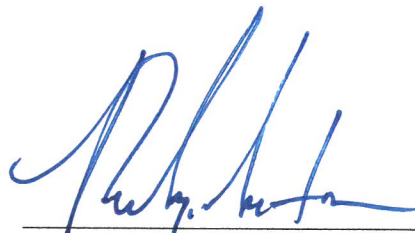
Staff recommends fully eliminating item 7. When companies first started applying for the tax credit, Staff was not as familiar with the different equipment and network setups required to provide broadband service. This type of information is more readily available now and most companies have stopped providing it without any deleterious effects.

Finally, Staff suggests changing the conjunctive ‘and’ to the disjunctive ‘or’ in item 8. Companies generally only provide either a percentage or customer count but not both. Staff has attached a clean copy of the proposed changes to the list of information required in applications seeking an order for installed broadband equipment. See Attachment A.

#### **STAFF RECOMMENDATIONS**

Staff recommends that the Commission accept its changes to the information that is necessary for a company to provide to obtain an order that installed equipment is “qualified” broadband equipment. Staff also recommends the Commission reiterate the importance of submitting all the required information under item 5 in order for the Application to be approved.

Respectfully submitted this 4<sup>th</sup> day of January 2022.



Riley Newton  
Deputy Attorney General

Technical Staff: Daniel Klein  
Johan Kalala-Kasanda

i:umisc/comments/gnrt21.10rndkjk comments

## **Attachment A**

1. Name and address of applicant including the contact person in the event there are questions regarding the application and its content. Indicate whether the applicant is a telecommunications carrier, a commercial mobile service carrier, a cable or open video operator, a satellite carrier, or other type of wireless carrier.

2. Identify the area or location where the equipment is installed in Idaho.

3. Describe the type of broadband service(s) offered to the public in Idaho.

4. Provide the lowest transmission rate offered to customers, in bits per second, that subscribers to the relevant broadband network can receive and send (download and upload).

5. Provide a specific list of the equipment or types of equipment that the applicant is requesting that the Commission determine is “qualified broadband equipment” as defined in Idaho Code § 63-3029I(3)(b). List the brand, manufacturer, and model numbers of the installed equipment, number of items and total cost.

6. Provide the date(s) or time period(s) when the broadband equipment was installed in Idaho.


7. Quantify the percentage or number of potential Idaho subscribers that could be served with the broadband equipment and the percentage or number of non-Idaho subscribers that will be/could be served by the broadband network.

8. Enclose a statement certifying that the applicant has read the applicable statutes for broadband investment income tax credit and the applicant believes that the subject broadband equipment qualifies for the tax credit under Idaho Code § 63-3029I.

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 4<sup>TH</sup> DAY OF JANUARY 2022, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. GNR-T-21-10, BY E-MAILING A COPY THEREOF, TO THE FOLLOWING:

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SECRETARY

CERTIFICATE OF SERVICE